

Case Reference: HGY/2024/0914

OBJECTION from Chris Hallatt Wells, 13 Stanhope Gdns

1. SUMMARY OF GROUNDS WHY THE APPLICATION IS INVALID

Application HGY/2024/0914 (the “**Application**”) is a retrospective planning application to authorise raising the ground level of the driveway and garage forecourt of One Pound Lane, Stanhope Gardens, N6 5TT by up to 700mm.

The Application records a site meeting on 18 January 2024 with Nathan Keyte (Haringey planning officer) and his confirmation on 25 January 2024 regarding how the application should proceed. The Application states the confirmation on 25 January 2024 detailed the **information that “was needed to make a determination.”** (Page 3, 1.2 Planning Queries, paragraph 7).

INFORMATION REQUIRED BY HARINGEY PLANNING	INFORMATION PROVIDED	IMPACT ON PLANNING APPLICATION	SUPPORTING EVIDENCE	PAGE
Site survey showing changes in ground levels	The survey attached to the Application is materially inaccurate.	Invalidates the Application	Site inspection Review of Site survey Photographs Independent GPS Survey	4-13
Information on changes to drainage	The Application provides no information at all on a material drainage issue that has already been identified by the head of Haringey Building Control as a breach of building regulations.	Invalidates the Application		16

	Information on a previously undisclosed soakaway has been provided. However, the information in the Application is incomplete (test data required by building regulations is not included), misleading or false.	Invalidates the Application		17-18
	The Application provides no information at all regarding the drainage issues caused by raising the ground level at the north east corner of the back garden of 13 Stanhope Gardens by 800mm. A raised flower bed has been installed at this location. Water in the raised flower bed will drain freely into 13 Stanhope Gardens.	Invalidates the application	Site inspection Photographs Independent GPS Survey	19-25
Has the level of the new house been increased? This can be considered to be within requirement to provide information on changes in ground levels	The Application states that the new house has not been raised. But the driveway has been raised to provide step free access. This is contradicted by a review of the East West elevations in the 2019 & 2024 applications. The 2019 application – before the ground level was raised – also shows step free access. If the level of the new house had not been raised the 2019 elevations would show	Invalidates the Application	Comparison of East/West elevations HGY/2019/3050 & HGY/2024/0914 Both elevations show step free access	26-27

	two or more steps to access the property			
Boundary details (ie. proposed changes to fencing)	The information relies on the accuracy of the site survey to measure fence heights. The survey is materially inaccurate, so information on the height of fences is misleading.	Invalidates the Application		28
Arboricultural Report	No comment	No comment		

The Application can also be shown to include materially false or misleading information and statements that are contradictory on other materially important matters.

- Haringey provided a list of the information required to make a determination.
- The necessary information has not been provided.
- The Application contains other materially false or misleading information.
- The application is therefore invalid.
- A decision to give retrospective planning permission to an apparently invalid application is unlikely to find favour on appeal, with the ombudsman or in judicial review. It may also breach of the council's duty of care. Especially so, as the granting retrospective planning permission would approve a previously known breach of building control (recognised as a breach of Building Regulations by Haringey Building Control) and newly identified breaches.
- The Application cannot be approved. Enforcement action is now needed.

2. SITE SURVEY SHOWING CHANGE IN GROUND LEVELS

2.1 INFORMATION PROVIDED IN THE APPLICATION TO DETAIL THE INCREASE IN GROUND HEIGHT

HGY/2024/0914 states:

- the level of driveway has been raised by up to **700mm** (Page 3, Heading 1.2, paragraph 8);
- *“we reiterate that the levels of the house have not been affected [by the increase in the ground level of the driveway and forecourt] and the house was constructed according to approved documents”* (Page 14, paragraph 3)

The evidence provided to support these and other statements is a GPS topographical plan reference SD231932-02 dated December 2023 produced by Technics. (the “**2023 Technics Plan**”).

The 2023 Technics Plan is a comparative study of:

- the data obtained by Technics when they surveyed the site in December 2023 (after the levels had been raised)

AND

- results from an earlier GPS topographical survey carried out by Taylor Tripp (reference TT Red.701 Site Survey dated 29.9.16) before the ground levels were raised (the “**2016 Taylor Tripp Plan**”).

It can easily be demonstrated by a desk based review and confirmed with a site visit that one or both of these topographical plans is inaccurate and cannot be used to make a determination of the Application. No specialist equipment is required. A tape measure and spirit level are sufficient.

Whilst specialist surveying equipment is not necessary to demonstrate errors in the 2023 Technics Plan, we have commissioned an independent GPS survey to provide additional proof. Our survey relies on data collected in 2016 for a survey relating to the building of the side extension of 13 Stanhope Gardens and a new survey in 2024 to create profiles of the driveway to Pound Lane.

2.2 EXAMPLES OF INCORRECT/MISLEADING INFORMATION IN THE 2023 TECHNICS PLAN

The following examples demonstrate beyond reasonable doubt that the 2023 Technics Plan is materially inaccurate.

We propose that because the information on the change in ground levels provided by the developer has been shown to be inaccurate in these separate locations, all information on the change in ground levels it should be considered suspect and cannot be relied upon to make a determination.

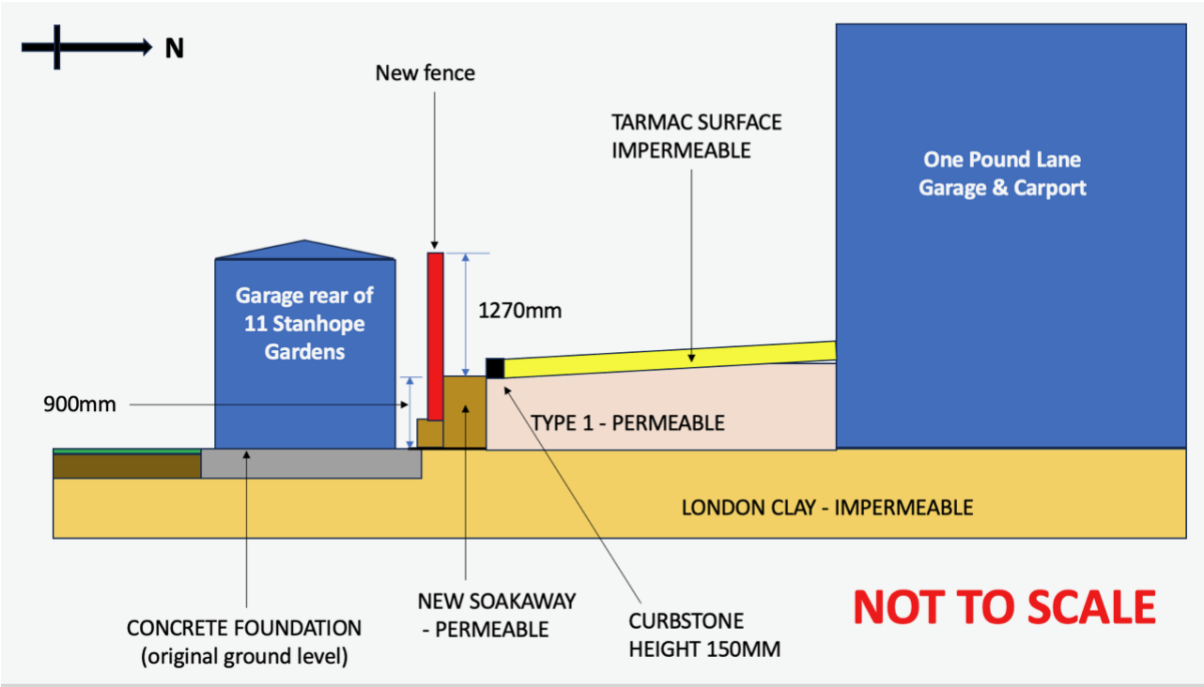
The incorrect information is material

- **The Application seeks to obtain retrospective planning consent that would permit consequential breaches of building regulations. Haringey's Planning Guidance states that the input of building control will usually be required when considering a retrospective planning application. To give an informed opinion Haringey Building Control will require complete and accurate information. We strongly propose that Haringey Building Control will have a negative view on the merits of a retrospective planning permission that materially breached building regulations.**
- **A decision to approve HGY/2024/0914 relying on the materially inaccurate topographical survey information will be open to challenge on appeal, by the ombudsman and at judicial review.**
- **A decision to approve HGY/2024/0914 made in the knowledge that the information on the ground levels is demonstrably unreliable, breaches building regulations and will cause harm to other residents, would likely be a breach of Haringey's duty of care.**
- **Even if retrospective planning permission is given to raise ground levels, the ground has been raised by more than 1 meter so the development will still be in breach of planning control.**
- **Contrary to explicit statements in the application, it appears likely that the level of new house may also have been raised.**

EXAMPLE ONE

Location: garage at rear of 11 Stanhope Gardens & garage forecourt 1 Pound Lane

ISSUE	DESCRIPTION	EVIDENCE
Increase in ground level beyond 700mm	The Application seeks consent to increase ground levels by up to 700mm. The ground level at this point has been raised by 1015mm	• Drawing • Photograph • Site visit



The spirit level indicates the raised ground level on the otherside of the new fence.

The soil below the fence is part of the new soakaway strip installed by the developer.

The concrete visible below the soil is the original ground level. The concrete is the foundation of the no. 11's garage.

The increase in the ground level is measured from the concrete to the spirit level plus the height of the curbstone shown in the drawing.

This increase is approximately 105mm

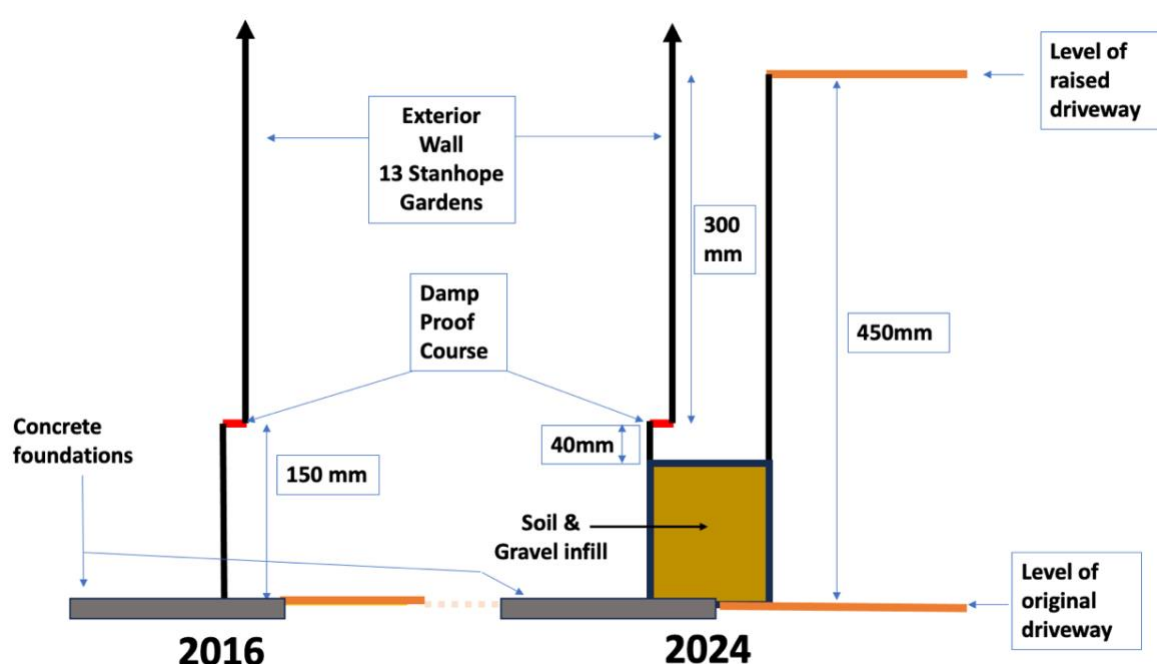
NOTE: there is no retaining structure below the fence to support the side of the soakaway or to prevent water draining freely into the garden of no. 11.

EXAMPLE TWO

Location: north east corner of side extension of 13 Stanhope Gardens

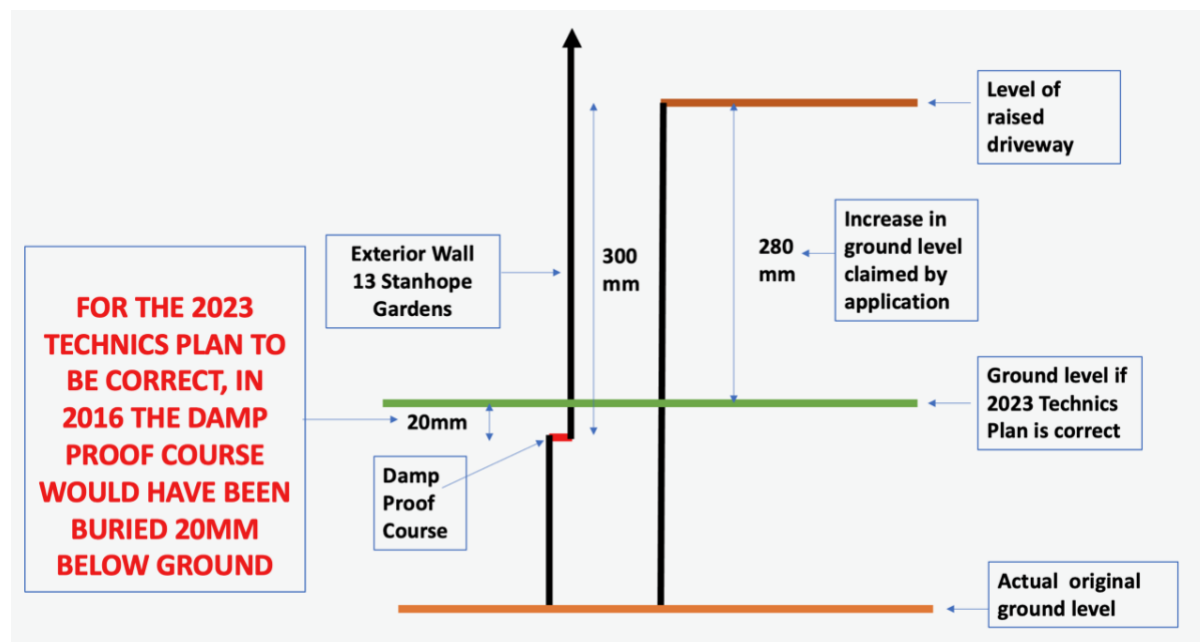
ISSUE	DESCRIPTION	EVIDENCE
Increase in ground level above the damp proof course ("DPC") of 13 Stanhope Gardens	Prior to the building of One Pound Lane the DPC of the side extension of 13 Stanhope Gardens was at least 150mm above the adjacent ground and the original driveway. The ground level of the driveway is now 300mm above the level of the DPC. This indicates that the ground level has been raised at least 450mm (i.e. 150mm + 300mm). The 2023 Technics Plan incorrectly shows that the ground has only been increased by 280mm	• Drawings below • Photograph • Independent GPS site survey comparing ground levels in 2016 & 2024 • Site visit

Drawing showing the change in ground levels between 2016 and 2024. This can be confirmed by a site inspection



Example 2. Continued

The 2023 Technics Plan shows incorrectly that the ground level has only been increased by 280mm. If the 2023 Technics Plan was correct the DPC of 13 Stanhope Gardens would have been 20mm below ground in 2016 (see drawing below).



The evidence shows that the clearance between the DPC and adjacent ground from 2016 (until the ground level was raised) was at least 150mm as required by Building Regulations. The 2023 Technics plan must therefore be incorrect.

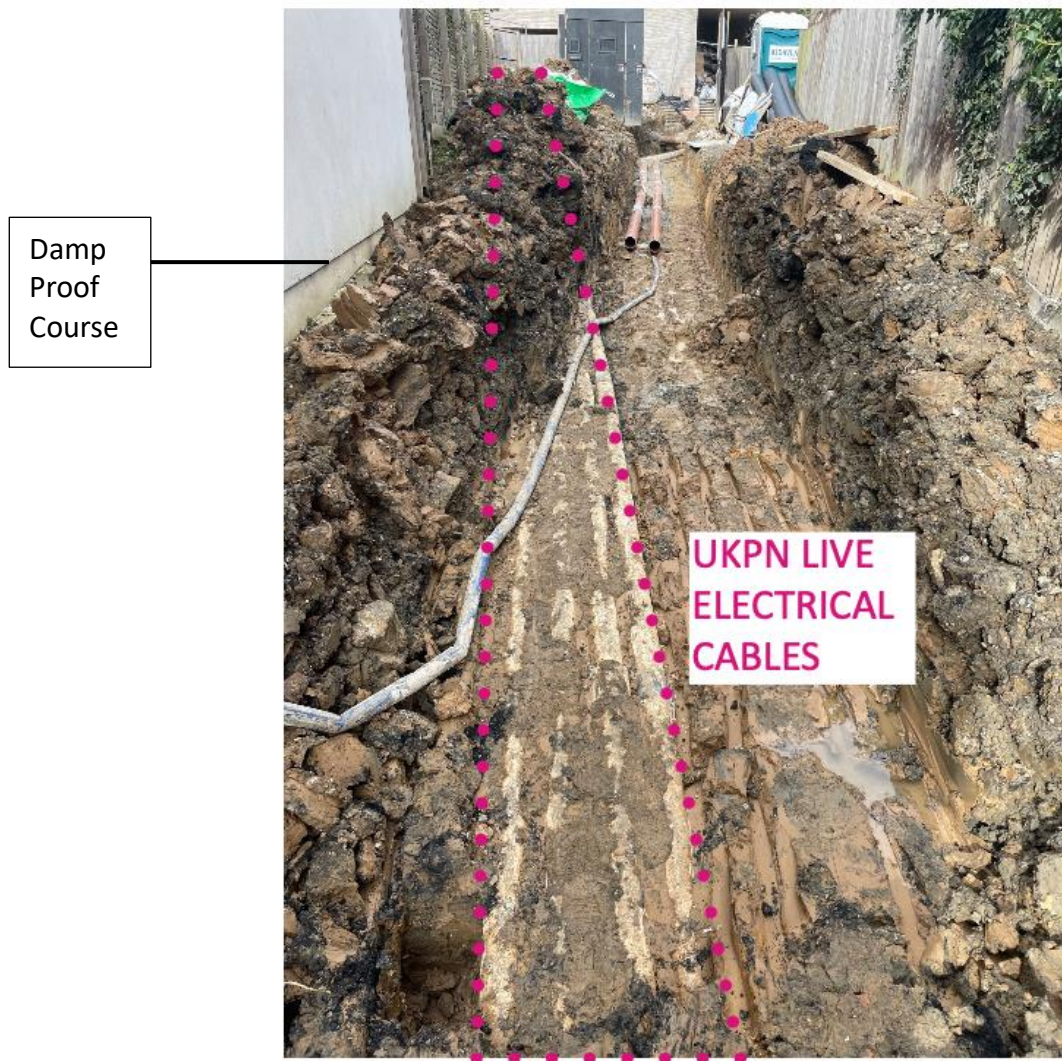
The errors in the 2023 Technics Plan are confirmed by:

- A. **photograph copied from the developer's own application HGY/2024/0914**
- B. statement from the building control inspector who issued the final certificate for the new ground floor side extension of No. 13 in 2016. The statement confirms that in 2016 the clearance between the DPC and the adjacent ground was at least 150mm; in compliance with building regulations. The full photographic record over an 8 year time horizon shows that the DPC was at least 215mm (i.e. the height of a course of standard concrete blocks) above the adjacent ground
- C. photographs taken by a party wall surveyor prior to the change in ground level
- D. photographs taken in 2023 showing the current situation. These can be confirmed by a site inspection.
- E. Independent GPS site survey showing the change in the level of the driveway relative to the damp proof course of 13 Stanhope Gardens

Example 2. continued

A. Image 1 copied from page 6 of application HGY/2024/0914

Image 1



6

Image 1 shows that the damp proof course of 13 Stanhope Gardens (on the left side of the picture) was above the level of the adjacent ground even whilst the excavation of the driveway to install services was underway. Note that Image 1 was submitted by the developer in its application.

Image 1 was taken before May 2023

Example 2. Continued

B. Statement from Mark Ringshall, building control Inspector dated 29 April 2024

The statement confirms that the damp proof course was at least 150mm above the adjacent surface and compliant with Building Regulations when he issued the final certificate for the side extension of 13 Stanhope Gardens in 2016.



Mark Ringshall
RE: 13 Stanhope Gardens, London, N6 5TT
To: Chris Hallatt Wells

29 April 2024 at 10:59

Dear Chris

Further to our discussions I can confirm that the Damp Proof Course level was at least 150mm above the external ground level for the new extension at the time we completed our final inspection. As a result, we were able to confirm compliance with the Building Regulations and issue the completion certificate.

Kind Regards

Mark Ringshall BSc (Hons) FCABE C Build E MCIQB DMS
Director
T: 0191 375 38 76
M: 07584 583102


BUILDING CONTROL

IMPORTANT NEWS:
We are delighted to announce the merger of JHAI into Stroma Building Control.
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Example 2. Continued

C. Photograph taken by Paul Brettel MFPWS (party wall surveyor) on 14 February 2022

Taken prior to the start of the building work at One Pound Lane, the photograph shows that the clearance at the north east corner of the side extension of 13 Stanhope Gardens in 2022 was at least 150mm - as required by Building Regulations and confirmed by Building Control.

We have a comprehensive photographic record over an 9 year time horizon. The full photographic record demonstrates that the damp proof course was actually a minimum of 215mm above the adjacent land in 2016.

2016

Damp
Proof
Course

Ground level before
the driveway was
raised in 2023



Example 2. Continued

- D. Photographs taken in August 2023 after the ground level was raised in breach of planning control.



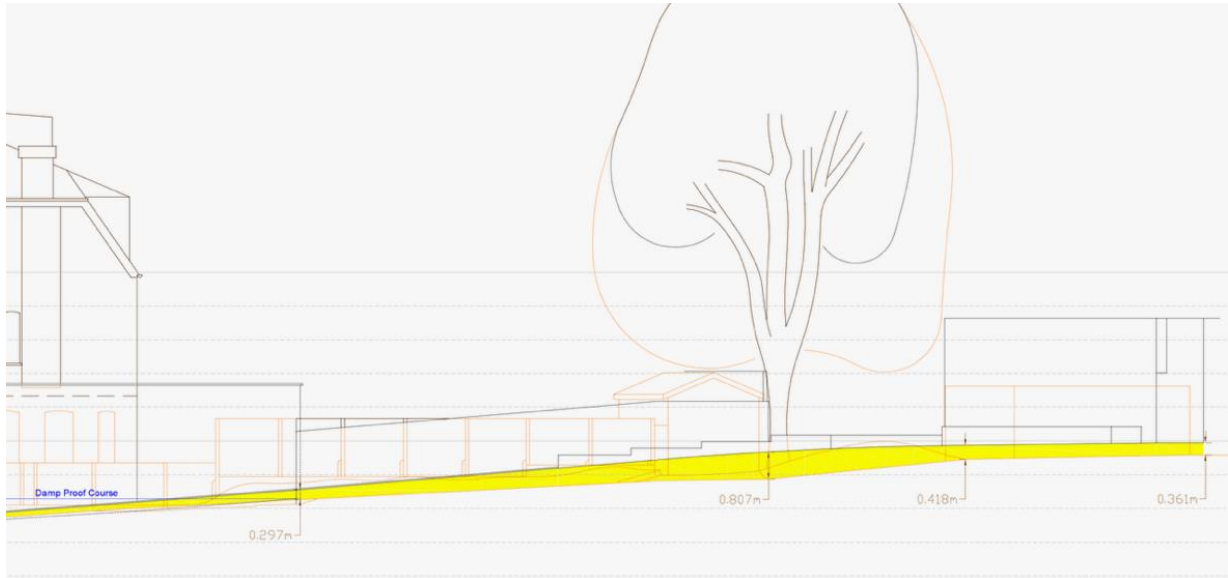
2023



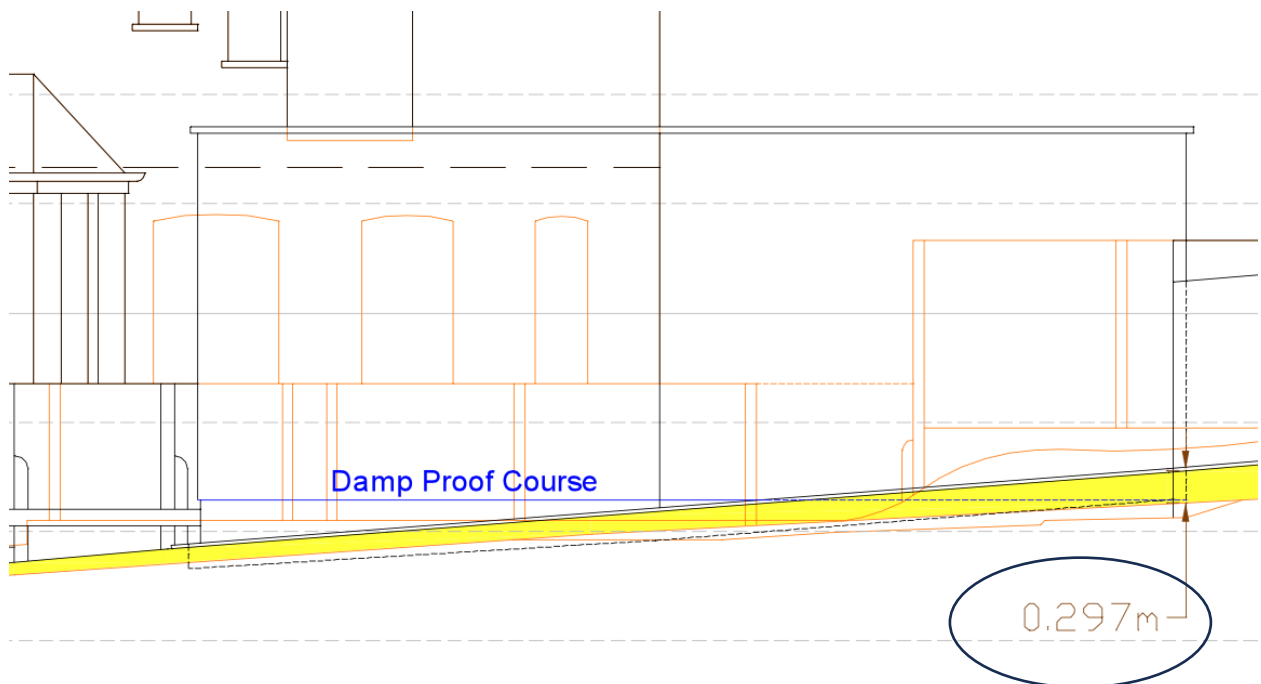
2023

Example 2. Continued

E. Independent GPS site survey showing the change in the profile of the driveway between 2015 and 2024



Extract from the first survey highlighting the change in the level of the driveway relative to the height of the damp proof course of 13 Stanhope Gardens.



3. INFORMATION ON CHANGES TO DRAINAGE

ISSUE	DESCRIPTION	EVIDENCE	EFFECT ON PLANNING APPLICATION
New soakaway behind 7, 9, & 11 Stanhope Gardens	The information provided is incorrect and misleading	Site inspection	Invalidates the Application
Undisclosed new soakaway/raised flower bed at the north east corner of 13 Stanhope Gardens	No information has been provided. The level of the raised flower bed is above the ground level of the outdoor seating area at the rear of 13 Stanhope Gardens	i. Site inspection ii. Photographs	Invalidates the Application
Raising the driveway above the damp proof course along the side extension of 13 Stanhope Gardens	No information has been provided at all. The Head of Haringey Building Control has confirmed raising the ground level breaches Building Regulations Approved Document H (Drainage)	i. Site inspection ii. Drawing iii. Photographs iv. Email from Head of Haringey Building Control to Haringey Principal Planning Enforcement Officer	Invalidates the Application
Raising the driveway 800mm at the north east corner of the back garden of 13 Stanhope Gardens	No information has been provided at all	i. Site inspection ii. Photographs iii. Independent GPS site survey	Invalidates the Application
Increase in the water logging of gardens south of the new house.	No information has been provided.	Site inspection	

After the new house was built, our garden is often waterlogged with pools of standing water on the lawn. Previously this was never an issue, even during periods of heavy rain.			
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The Application records that the Mr Keyte, Planning Officer Haringey, confirmed on 25 January 2024 that:

“Any change to drainage that may occur as a result of the works should be stated.” (page 3, 1.2 Planning Queries paragraph 7)

However, The Application does not comply with the requirement confirmed by Mr Keyte on 25 January 2024

- A known change in drainage that has occurred as a result of the works has not been stated although it has been identified as a breach of drainage building regulations (Approved Document H).
- New information that has been provided on a previously undisclosed change to drainage is:
 - Misleading; and
 - Does not contain sufficient information to make a determination. Eg. the application does not contain the results of the percolation tests required by Building Regulations regarding the soakaway that has already been installed behind the rear gardens of 7, 9 & 11 Stanhope Gardens. Without these calculations (if they exist) the merits of the soakaway cannot be considered.
- No information has been provided regarding drainage issues caused by raising the ground level at the north east corner of the back garden of 13 Stanhope Gardens by +800mm and installing a raised flower bed with a soakaway. The raised flower bed is 500mm above the level of 13 Stanhope Garden and excess water will drain freely into 13 Stanhope Garden.

3.1 Information on change to drainage adjacent to side extension of 13 Stanhope Gardens

In October 2023 the lead Building Surveyor of Haringey Building Control (in an email to the head of Haringey Planning Enforcement) confirmed that the unauthorised raising of the ground level in the driveway contravenes Building Regulations regarding protection against the ingress of water (Approved Document H).

The developer and/or their agents (including architects, builders & surveyors) are aware that increasing the ground level in this area breaches building regulations.

However, the Application contains no information at all regarding the negative impact on drainage and breach of building regulations caused by the raising of the ground level of the driveway.

Haringey's Guide to Planning Enforcement states: *"For retrospective planning applications and negotiations the input of Development Management, Conservation and Urban Design, Building Control [.....] will usually be necessary."*

When considering the merits of this retrospective planning application we strongly suggest that the advice of Haringey's Principal Building Surveyor (that the unapproved work contravenes UK building regulations) will be persuasive.

However, application HGY/2024/0914 has omitted to provide any of the information required for Haringey Building Control to give informed input on the breaches of building regulations and solutions.

3.2 New Soakaway behind 7, 9 & 11 Stanhope Gardens

Page 13, section 5.0 Drainage Design of the application states:

“The soil on site was predominantly of the London clay type, known for its poor water permeability. The natural slope of the land meant that, previously, the site drained freely into the gardens of no 9 and 11 Stanhope Gardens”.

Page 14 paragraph 5 states:

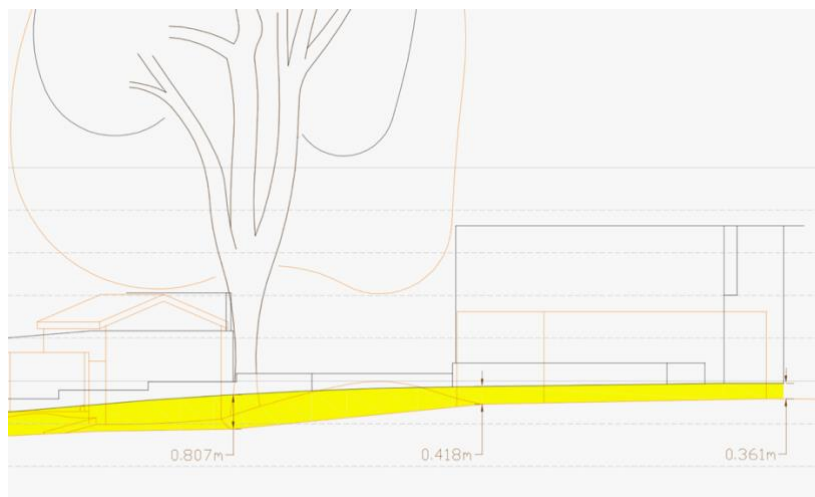
“This document also sets out the proposed drainage provisions including the new soakaway strip along the boundary which will greatly improve on the previous situation and has been designed to prevent water runoff onto neighbouring properties.”

However:

- Prior to the unlawful increase in the ground level water did not drain freely into the gardens of no 9 and 11 Stanhope Gardens. A low earth bank along the boundary between the site and 7, 9 & 11 Stanhope Gardens directed water away from the boundary and into rainwater drainage.
 - The soakaway is not an improvement on the previous situation. Breaching building control regulations resulting in a new permanent risk of flooding is not an improvement.
- As the Application states, the soakaway strip is along the boundary with 11 Stanhope Gardens:
 - Building Regulations prohibit the installation of a soakaway within 1.5 meters of a boundary and within 5 meters of a building.
 - The soakaway is less than 1 meter from the garage at the rear of 11 Stanhope Gardens. A garage falls within the legal definition of a building for the purposes of Building Control.
- The soakaway will not prevent water runoff onto neighbouring properties because the soakaway is above the adjacent ground (see photograph below) As the application notes, the soil type is impermeable clay. Water entering the soakaway will percolate through the soakaway until it reaches the impermeable clay. It will then drain freely into the gardens of 9 and 11 Stanhope Gardens.



3.3 Change to drainage caused by raising the ground level at the north east corner of 13 Stanhope Gardens by +800mm



Extract from independent GPS site survey confirming that the driveway has been raised by 0.807m at this location.

The surface adjacent to the paved out door seating area in the back garden of 13 Stanhope Gardens is 400mm below the level of the raised flower bed installed at this location. I.e. if the driveway had not been raised by 800mm the level of the flower bed would be below the paved area in 13 Stanhope Gardens.

Page 13, section 5.0 Drainage Design of the application states:

"The soil on site was predominantly of the London clay type, known for its poor water permeability"

- This statement recognises that excess water will not percolate into the ground. A small and shallow soakaway has been installed. However, as the above statement records, the soil type is London clay and water will not drain off into the soakaway. Instead, excess water will drain freely into 13 Stanhope Gardens.
- The raised flower bed is enclosed on three of four sides by a very substantial concrete and brick retaining wall. The retaining wall consists of a poured concrete structure topped with concrete blocks and faced with red brick.
- The three sides that retained are those facing towards the driveway of Pound Lane. The side facing towards 13 Stanhope Gardens is open, as shown in the photographs. A wood fence has been installed on the open side.

- Two vertical weep holes are visible in the south facing end of the retaining wall. These appear to be cosmetic rather than functional.
 - The weep holes are above the level of the garden of 13 Stanhope Gardens, so excess water will always drain into Stanhope Gardens rather than through the weep holes.
 - The photographs suggest that the weepholes do not go through the concrete structure of the retaining wall behind the brick facing.

Photographs taken 2016

The photograph shows the level of the original driveway relative to the baton fence of 13 Stanhope Gardens and the concrete ramp where the raised flower bed has been installed. Previously the ramp provided access to the garage of 13 Stanhope Gardens (now removed)



Area where
the raised
flower bed has
been installed

Photographs taken May 2023

The photographs show that the retaining wall is substantially higher than the garden of 13 Stanhope Gardens visible through the horizontal baton fence. The grassed area of the garden is level with the bottom of the second/middle railway sleeper.

The panel fence and the baton fence shown in the photographs belong to 13 Stanhope Gardens.

The photographs also demonstrate the robust construction of the retaining wall.

Weep holes are
not visible

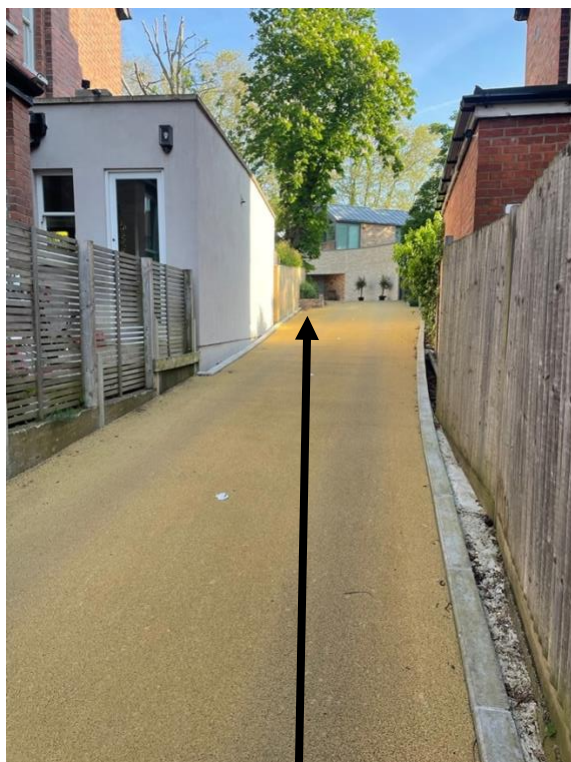






Soakaway

The base of the soakaway is above the level of the grassed lawn of 13 Stanhope



Raised flower bed



Weep holes:

Cosmetic not functional.

The weep holes are above level of adjacent garden.

A retaining wall has not been installed along the boundary with 13 Stanhope Gardens. Water will drain freely into Stanhope Gardens before it reaches the weep holes.



4. INFORMATION ON CHANGE TO LEVEL OF THE NEW HOUSE

ISSUE	DESCRIPTION	EVIDENCE	EFFECT ON PLANNING APPLICATION
Has the level of the new house been increased?	The Application states that the new house has not been raised. But the driveway has been raised to provide step free access. This is contradicted by a review of the East West elevations in the 2019 & 2024 applications. The 2019 application – before the ground level was raised – also shows step free access. If the level of the new house had not been raised the 2019 elevations would show two or more steps to access the property	Comparison of East/West elevations HGY/2019/3050 & HGY/2024/0914 Both elevations show step free access AND Timeline: • The reason given for increasing ground levels is an unexpected problem with buried UKPN powercables. • However, the new house was structurally complete before the problem was discovered.	Invalidates the Application

- **Page 4 of the application, 1.4 paragraph 1 states:**

“Increased levels at the driveway area up to 700mm from the original ground level to accommodate the utilities servicing the house. Refer to the topographical survey (ref: SD231932-02) of the current levels on page 5. Note that the levels of the house were not altered and kept in line with the approved planning application.”

- **Page 6, paragraph 1 states:**

“Adjustments to the ground levels on the upperdriveway and on the garage forecourt were then made to align with the interior of the house to create step-free access for mobility reasons.”

- **These statements are contradictory.**
 - A site investigation will show that the ground level has been increased by more than 1 meter along the boundary with no 9 & 11 Stanhope Gardens. The Application says the upper driveway has been raised by 300mm to 700mm
 - If the upper driveway and garage forecourt have been raised and the East/West Elevation drawings HGY/2019/3050 also show step-free access, this would indicate that the house has been raised by a similar amount.
 - If the house has not been raised, the East/West Elevation drawings HGY/2019/3050 would show steps to the front door.
- **The timing is inconsistent**
 - The reason given for increasing ground levels is an unexpected problem caused by electricity cables in the driveway. However, the cables were not exposed until February 2023 after the structure of the house had been completed.
 - If the house has been raised, this is not due to the presence of the electricity cables in the driveway.
- Further, if the driveway and forecourt were raised due to the drains/power cables issue, why was this not disclosed to earlier? Eg. when Haringey Planning Enforcement issued an instruction to the developer to reduce the level of the hardcore before the tarmac layers were added.

5. INFORMATION ON CHANGE TO HEIGHT OF FENCES

- Annotations on Page 10 of the Application state that the height of fences is measured from the ground level (GL) of Pound Lane.
- Due to the inadequacies of the 2023 Technics Plan a fence that is 2 meters in height above the new ground level of One Pound Lane may be more than 3 meters above the natural ground level prior to the increase in height. Eg. behind the gardens of 11 Stanhope Gardens.
- Whether the height of fences is measured from the original or new ground levels is material to consider the merits of the application.

6. SUMMARY

HGY/2024/0914 is a retrospective planning application to increase the ground level of the driveway and garage forecourt of One Pound Lane, Stanhope Gardens, N6 5TT.

The Application is required because the developer of Pound Lane raised the ground level of the driveway and garage forecourt by more than 300mm. Raising ground levels by more than 300mm requires planning consent.

In addition, Haringey Planning Enforcement has previously determined that the unauthorised work meets the definition of an engineering operation. Therefore, increasing the level of the driveway would require planning consent even if the levels had been raised by less than 300mm.

The application does not provide the information needed to make a determination on the merits of the application and is therefore invalid.

Further, the application seeks to authorise known breaches of building regulations, including breaches confirmed by the Head of Haringey Building Control. Giving retrospective consent to breaches of building control is contrary to:

- The building control regime established by statute
- Government and Haringey's planning guidance
- Public policy to maintain public confidence in the planning system.

A decision to give retrospective planning permission to an invalid application which approves known breaches of building control is unlikely to find favour with the ombudsman or in judicial review. It may also breach of the council's duty of care.